

UH System Plan for Language Access

July 2011-July 2013

I. Purpose

In 2006, the State of Hawai‘i’s Language Access Law¹ was enacted to affirmatively address the language access needs (on account of national origin) of limited English proficient (LEP) persons. The law seeks to address language barriers to:

- accessing important benefits or services,
- understanding and exercising important rights,
- complying with applicable responsibilities,
- or understanding other information provided by state-funded programs and activities.

It was the intent of the legislature that the provision of language accessible services be guided by Executive Order 13166 (2000), Title VI of the Civil Rights Act (1964), and succeeding provisions of federal law, regulation, or guidance. [L 2006, c 290, pt of §1] Title VI protects people from discrimination based on race, color, or national origin in programs or activities that receive Federal financial assistance. The University of Hawai‘i receives federal funds and complies with Title VI.

II. Language Access Plans

The Hawai‘i Language Access Law requires State agencies receiving federal financial assistance to file a language access plan by July 1, 2007, and every 2 years thereafter, with the Office of Language Access (OLA), within the State Department of Labor and Industrial Relations. The updated UH System Plan covers the period July 2011-July 2013. During this phase, the EEO/AA Director for UH Mānoa & UH System Office will continue to serve as the University’s contact person for consultation with OLA. [HRS 371-34(c)]

The goal of the UH System Plan is for each campus to establish its own Language Access Plan. The campus plans will serve to inform OLA, University employees, and LEP persons how each campus will provide language access services as required by HRS 371-33. The plans will use the guidelines provided in the Hawai‘i Language Access Law and may include other applicable guidelines or factors, such as federal laws and regulations (e.g., Title VI of the Civil Rights Act of 1964 and implementing regulations issued by the U.S. Department of Education).

III. Action Steps

A. The UH System has completed the following action steps identified in previous plans:

1. Language Access Coordinators have been designated for each campus. These individuals are responsible for developing and implementing a campus plan.
2. A Working Group was organized to recommend appropriate steps campuses should take to implement the Language Access Law. The advisory group includes faculty and staff from the UH

¹ HRS Sections 371-31 to 371-37 (2006 Haw. Sess. L. Act 290)

Center for Interpretation and Translation Studies, the EEO/AA Director for Community Colleges, and the EEO/AA Office for UH Mānoa and UH System Offices.

3. Campus Surveys have been conducted to identify vital documents, priority programs, and language access needs.

B. The current and future action steps will include:

1. Follow up on Campus Surveys to clarify issues related to:

a. Priority programs where a need for language access services may be indicated

Programs that receive priority consideration will be identified using the four factor guidelines below and applicable federal guidelines (Title VI of the Civil Rights Act).²

Guidelines for Determining Meaningful Access [§371-33]

i. The number or proportion of limited English proficient persons served or encountered in the eligible service population;

ii. The frequency with which LEP persons come in contact with the programs, activities, or services;

iii. The nature and importance of the programs, activities, or services; and

iv. The resources available to the State or covered entity and the costs.

b. “Vital documents”³

Several vital documents were identified that need to be reviewed for possible translation in light of the eligible population.⁴

² Employment is covered by Title VII of the Civil Rights Act (e.g., nondiscrimination on the basis of national origin) and the Hawai‘i Fair Employment Practices law (nondiscrimination on the basis of ancestry, including language, accent, dialect). Employment does not constitute a “program, service, or activity” under Title VI or the Hawai‘i Language Access Law. However, career and job placement services funded under the Workforce Investment Act (WIA) are “services” covered under Title VI. Community Colleges involved with the WIA and One Stop centers already comply with the language access requirements of Title VI.

³ Vital Documents are defined as printed documents that provide important information that is necessary for the LEP individual to participate in programs, services, and activities. Vital documents include, but are not limited to: applications, outreach materials, and written notices of rights, denials, losses or decreases in benefits or services. (HRS 371-32)

⁴ Written translations of vital documents need to be done for LEP groups that constitute 5% or 1000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered by the agency. (HRS § 371-33(c)(1)).

c. Offices where language access notices may need to be posted⁵

The assessment has determined that English language fluency is an essential aspect of the University's educational programs and activities (e.g., undergraduate or graduate education).⁶ Most of the University's "clients" or "customers" are students who must have sufficient English language fluency to qualify for higher educational programs. However, language access notices are recommended in certain offices (e.g., student judicial affairs, student health services, counseling, campus safety), and all requests for language access services should be considered on a case-by-case basis by the program or campus.

The assessment process has also determined that most nonacademic programs open to the general public involve nonessential services, entertainment, or commercial activities (e.g., sports events, bookstores, food vendors, concerts). Based on the four prong "guidelines for meaningful access," multilingual notices are not required for these types of programs; however, requests for language services should be considered on a case-by-case basis.

2. Develop Language Access Plans for each campus

Campus plans should address the following:

a. Language Access Resources and Services

Based on the campus assessment, each campus should develop procedures and identify appropriate resources, both internal and external, in order to provide language access services free of charge to eligible LEP individuals, including:

- competent, timely oral language services
- written translations of vital documents

Examples of language access resources include multilingual University employees, qualified interpreters, and telephone interpreters. Each campus will have the flexibility to determine what resources to use and the procedures for implementing the interpreter and translation services.

If the campus decides to include University employees as interpreters, the campus will conduct a survey or recruit volunteers and develop a resource list of employees who are able to provide competent oral interpretation.

⁵ If there are fewer than 50 persons in a limited English proficient group that reaches the 5% threshold, the agency must provide written notice in the primary language to the limited English proficient language group of the right to receive competent oral interpretation of vital documents, free of cost (HRS § 371-33(c)(2)).

⁶ The Hawai'i Language Access Law is modeled after Title VI. Title VI does not require recipients to remove language barriers when English is an essential aspect of the program (such as providing civil service examinations in English when the job requires a person to communicate in English, see *Frontera v. Sindell*, 522 F.2d 1215 (6th Cir. 1975)), or when there is another non-pretextual "substantial legitimate justification for the challenged practice" and there is no comparably effective alternative practice with less discriminatory affects. *Elston v. Talladega County Bd. of Educ.*, 997 F.2d 1394, 1407 (11th Cir. 1993); *New York City Environmental Alliance v. Giuliani*, 214 F.3d 65, 72 (2nd Cir. 2000)

Campus Language Access Coordinators and other personnel will also use the four-factor guidelines to identify the appropriate interpreter skill level for the particular situation, and when a qualified interpreter is recommended or necessary.

b. Hiring Bilingual Personnel

If the program or campus determines a need for additional bilingual personnel, they should include the relevant language skills as a desirable qualification when filling vacant state funded public contact positions. [HRS 371-33(d)]

c. Multilingual Signage

Programs that need multilingual signage [per HRS § 371-33(c)(2), see footnote 4] may prepare their own signage or use materials from OLA or the UH Center for Interpretation and Translation Studies.

d. Dissemination and Training [HRS § 371-37(c)(3)]

Each campus should ensure that department administrators and staff who will be in contact with LEP customers are briefed on the guidelines and procedures for providing language access services. Information can also be disseminated through the UH staff newsletter or other forms of communication to notify employees of the campus Plans for Language Access and Language Access Coordinators.

IV. Updating and Revising the Plan [HRS § 371-34]

The next update is due to OLA by July 1, 2013.